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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,167	03/01/2004	Jay S. Walker	3718582-00119	1011
29159	7590	05/21/2010		
K&L Gates LLP P.O. Box 1135 CHICAGO, IL 60690			EXAMINER ELISCA, PIERRE E	
			ART UNIT 3714	PAPER NUMBER
			NOTIFICATION DATE 05/21/2010	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

chicago.patents@klgates.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/790,167	<b>Applicant(s)</b> WALKER ET AL.	
	<b>Examiner</b> Pierre E. Elisca	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 13-17, 29 and 34-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5, 29 and 34-36 is/are allowed.
- 6) ☒ Claim(s) 13-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. This communication is in response to Applicant's arguments filed on 09/23/2009.
2. Claims 1-5, 13-17, 29 and 34-36 are currently pending and have been examined.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liverance (5,370,399) in view of Seelig et al. (5,560,603), hereafter '603. Note that, '603 is a continuation-in-part of Seelig et al. (5,664,998), hereafter '998; therefore, the disclosure of '998 is considered herein as part of the '603's disclosure.**

**Referring to claim 13**, Liverance teaches a system and method comprising: receiving payment for a predetermined number of slot machine outcomes, e.g., a 5-coin machine generates five games outcomes (16:28-17:33);

generating the predetermined number of slot machine outcomes, each outcome corresponding to a speed value (3:54-68).

Liverance does not teach displaying a racing object having a position which changes based on the speed value. Seelig et al., however, teaches a method

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comprising displaying a racing object having a position which changes based on the speed value (Fig.3, 2:61-3:4). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Seelig et al.'s racing game to the game system and method of providing incentives for response time based game, as taught by Liverance, to come up with a more dynamic game method that enhance game excitements thus encourage game players playing games faster and increase casino's revenue.

**Referring to claim 14**, Seelig et al. '603 teaches providing a payout based on at least the speed value, *e.g.*, *awarding different prizes to the horse reaching certain win line position (Win, Place, or Show) within a set of time (3:56-4:7)*.

**Referring to claim 15**, Seelig et al. '603 teaches providing a payout based on at least the position, *e.g.*, *awarding different prizes to the horse reaching certain win line position such as Win, Place, or Show (Fig.3, 3:56-4:7)*.

Regarding the limitation of calculating an average speed; and providing a payout based on at least the average speed (claim 16), this limitation is inherent from Seelig et al. '603 teaching of speed calculation of the horse or car reaching a certain win line such as Show, Place, or Win at certain time period before the timer run out of time.

Regarding the limitation of generating a respective slot machine outcome for each one of a plurality of player commands (claim 17), this limitation is inherent from the response of slot machine of Seelig et al. '603 to the player's game commands such as pulling the handle 24 or depressing the button 26 (3:3:53-63).

***Allowable Subject Matter***

5. Claims 1-5, 29 and 34-36 are allowable.

**RESPONSE TO ARGUMENTS**

6. Applicant's arguments with respect to claims 13-17 have been considered but they are not persuasive.

**REMARKS**

7. In regard to Applicant's arguments filed on 09/23/2009, Applicant argues that all of the pending claims have all been previously allowed in view of Acres, Liverance, Seelig, Walker '700, and Walker '288. In the Notice of Allowance mailed October 6, 2008, the same Examiner states that [t]he art of record does not anticipate or make obvious the limitations of [all of the independent claims] and that, accordingly, claims 1-5, 13-17, 29, and 34-36 are allowable. However, it is the Examiner believes that Liverance in view of Seelig disclose the limitations in claims 13-17. (see., rejection detailed above).

***Conclusion***

**8. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 571 272 6706. The examiner can normally be reached on 6:30 to 5:00. Hotelier.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571 272 4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Pierre E. Elisca/  
Primary Examiner, Art Unit 3714